

EXHIBIT 4
FILED UNDER SEAL

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

STATE OF TEXAS, et al,)
)
Plaintiffs,) CASE NO.
) 4:20cv00957-SDJ
v.)
)
GOOGLE, LLC,)
)
Defendant.)
-----)

-- -- --
Friday, May 17, 2024

-- -- --
HIGHLY CONFIDENTIAL
PURSUANT TO PROTECTIVE ORDER

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Remote Video-Recorded Oral
Fed. R. Civ. P. 30(b)(6) Deposition of GOOGLE
CHAT, BY AND THROUGH [REDACTED] held at the
offices of Veritext, 1000 SW Broadway, Suite
1660, Portland, Oregon, commencing at
9:12 a.m. PDT on the above date, before Debra
A. Dibble, Fellow of the Academy of
Professional Reporters, Certified Court
Reporter, Registered Diplomate Reporter,
Certified Realtime Reporter and Notary
Public.

-- -- --
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1 governance team?

2 A. I have one direct report.

3 Q. Who is that?

4 A. His name is [REDACTED], and
5 he is the information governance technical
6 lead.

7 Q. And what does he do, just in
8 summary?

9 A. Yeah. Given the title, he is
10 the more technical, you know, kind of part of
11 the team. So he spends his time interfacing
12 with various product and engineering teams.

13 Q. Is he a lawyer?

14 A. No.

15 Q. So the legal decisions, if you
16 will, that information governance makes,
17 that's you, [REDACTED], right?

18 A. That's me, in collaboration
19 with the other members of the legal
20 department.

21 Q. Who enforces the chat retention
22 policy within Google?

23 A. The policy is managed by
24 technology called Vault.

25 Q. And can you explain to me how

1 Vault, that technology, enforces the chat
2 retention policy?

3 A. So we create a retention rule
4 within Vault, and that applies automatically
5 to Chat.

6 Q. And you can change that rule
7 within Vault, right?

8 A. Yes, within limits. That's not
9 unlimited, but, yes, we can control certain
10 aspects of retention behavior.

11 Q. A moment ago you said it was
12 paralegals and legal specialists who help
13 with litigation holds. Are legal specialists
14 lawyers or nonlawyers?

15 A. I don't know the specific
16 background of each of them.

17 Q. Okay. Does Vault also have
18 rules regarding the retention of e-mails?

19 MR. MCCALLUM: Objection,
20 scope.

21 A. Yes.

22 BY MR. COLLIER:

23 Q. What about documents?

24 MR. MCCALLUM: Objection,
25 scope.

1 A. In theory, you could apply it
2 to Drive, the application, which is where the
3 majority of our documents are stored.

4 BY MR. COLLIER:

5 Q. Well, when you say theory, are
6 there Vault rules that apply to Drive?

7 MR. MCCALLUM: Objection,
8 scope.

9 A. Not currently.

10 BY MR. COLLIER:

11 Q. So on your document retention,
12 stored in Drive, who enforces the retention
13 policy on that?

14 MR. MCCALLUM: Objection,
15 scope, and I'll note for the record
16 that there's a protective order in
17 place that limits questioning to chat
18 retention.

19 A. If there is no retention
20 policy, that means that all items stored in
21 Drive remain on our systems indefinitely.

22 BY MR. COLLIER:

23 Q. Okay. Is there a -- so we're
24 going to talk a little bit more about history
25 on and history off for chats, as you may

1 imagine, later.

2 But was the decision made to
3 force history on for chats on or about
4 February 8th of 2023?

5 A. Yes.

6 Q. Who made that decision?

7 A. That was another group decision
8 within the legal department.

9 Q. Who was in the group?

10 A. It was myself, my director,
11 members of the legal leadership team, to the
12 best of my knowledge.

13 Q. Okay. So who was your
14 director?

15 A. Her name is [REDACTED].

16 Q. [REDACTED]?

17 A. [REDACTED].

18 Q. Who were the members of the
19 legal leadership team that made that
20 decision?

21 A. Yeah, so they involved members
22 of our ARRIS legal organization. [REDACTED]
23 [REDACTED] is one of those directors. And
24 because of the importance of the decision, I
25 believe our general counsel was involved as

1 well, and our chief legal officer was
2 involved.

3 Q. What is the name of your chief
4 legal officer?

5 A. Kent Walker.

6 Q. Name of your general counsel?

7 A. [REDACTED].

8 Q. And can you spell ARRIS on
9 ARRIS leadership organization?

10 A. Yeah, it's an acronym. It's
11 A-R-R-I-S.

12 Q. And what is it an acronym for?

13 A. It's the Alphabet regulatory
14 investigation --

15 I'm not going to be able to
16 give you the accurate acronym explanation.

17 Q. And did you have meetings with
18 this team to determine that you should force
19 history on for chats on or about February of
20 2023?

21 A. There were ongoing
22 conversations around that time, yes.

23 Q. Is there ongoing e-mails that
24 discuss this?

25 MR. MCCALLUM: Objection,

1 privilege. The witness can answer,
2 but I would instruct the witness not
3 to divulge any details that are the
4 subject of the attorney-client
5 privilege.

6 A. I'm not -- I don't have a
7 direct recollection of specific e-mails, but
8 I'm sure that there were some correspondence.

9 BY MR. COLLIER:

10 Q. Is there chats regarding this
11 issue?

12 A. I don't honestly remember.

13 Q. Were any nonlawyers involved in
14 the decision to force history on for chats on
15 or about February 2023?

16 A. I don't have a direct
17 recollection of that.

18 Q. Was the CEO involved?

19 A. I believe that he would have
20 had to sign off on the decision, so I believe
21 it was presented to him for his approval.

22 Q. What about Mr. Mohan?

23 A. I don't know if he was
24 involved.

25 Q. Okay. What is your

1 understanding -- you understand you're here
2 today as a corporate representative of
3 Google?

4 A. Yes.

5 Q. What is your understanding of
6 what the Court has ordered you to testify to
7 today? Or testify about today?

8 A. In a general sense, it's Chat,
9 the product. It's retention of those chats,
10 and other related matters around our legal
11 preservation practices and policies.

12 Q. Fair enough.

13 What did you do to prepare for
14 your deposition today?

15 A. We had a couple of meetings
16 with counsel.

17 Q. Okay. So you say -- and I'm
18 not asking you discussions with your counsel,
19 to be clear.

20 When you say we had a couple
21 meetings with counsel, who is we?

22 A. My -- Robert here, Mara here,
23 and a couple of internal legal teammates.

24 Q. Okay. So when you say Robert,
25 you mean Mr. McCallum who is next to you?

1 A. Yes. Yes.

2 Q. And then other than
3 Mr. McCallum, it was the internal Google
4 legal team members?

5 A. Yes.

6 Q. By the way, back to the
7 decision to force history on in 2023, when
8 did -- just when. When did those
9 conversations begin before the decision was
10 made?

11 A. Can you be more specific?
12 Which conversations?

13 Q. Sure. Well, I'll break it into
14 pieces and see if I can make it easier.

15 You agree with me that history
16 was forced on for chats effective
17 February 8th of 2023, right?

18 A. Mm-hmm. Yes.

19 Q. And you said that was a
20 decision that came out of some meetings with
21 various people, right?

22 A. Mm-hmm. (Witness nods.)

23 Q. When did those meetings begin?
24 When did the conversation begin about forcing
25 on -- forcing history on for chats?

1 A. I believe they began several
2 weeks before the ultimate change was made.

3 Q. So if it was February 8,
4 presumably -- and I'm not asking for a
5 specific date, but presumably sometime in
6 January of 2023?

7 A. Yeah, I -- that's right.

8 Q. All right. So your -- you said
9 you had two meetings to prepare for today?

10 A. Mm-hmm. (Witness nods.)

11 Q. Okay. When was the first
12 meeting?

13 A. The first meeting was last
14 Wednesday -- oh, sorry. Sorry, I've been
15 traveling. So that would be -- I've had a
16 busy schedule.

17 Let me think. That was last --
18 what is today, Friday? Okay. That would be
19 last Friday.

20 Q. Okay. Where was that meeting?

21 A. I did that remotely. I was at
22 home.

23 Q. And who was part of that
24 meeting?

25 A. That was also Mr. McCallum and

1 Ms. Boundy, and our internal legal team.

2 Q. How long did that conversation
3 last?

4 A. I believe it was three hours.

5 Q. And then when was the next
6 meeting?

7 A. That would have been Wednesday
8 of this week.

9 Q. Okay.

10 A. I'm sorry, actually, that is --
11 that is incorrect. Sorry. I'm mixing up.

12 That would have been Tuesday of
13 this week.

14 Q. And where was that meeting?

15 A. Remotely as well.

16 Q. And the same group?

17 A. Correct.

18 Q. And other than that -- so other
19 than those two meetings, have you met with
20 anyone else to prepare for your testimony
21 today?

22 A. No.

23 Q. Did you discuss with your --
24 I've forgotten his name, but your information
25 governance technician?

1 A. Correct.

2 Q. So let me ask these questions
3 again. I want to make sure I'm clear with
4 you.

5 The materials Google would need
6 to preserve in anticipation of litigation
7 would include e-mails relevant to the subject
8 of the anticipated litigation, right?

9 A. In general, yes.

10 Q. And the materials Google would
11 need to preserve in anticipation of
12 litigation would include chats relevant to
13 the subject of the anticipated litigation,
14 right?

15 A. Yes.

16 Q. I'm going to hand you what we
17 have marked as Exhibit 423.

18 (Google/██████████ Deposition
19 Exhibit 423, 5/16/24 Privilege Log
20 Analysis, was marked for
21 identification.)

22 MR. COLLIER: Oh, I'm so sorry.

23 JJJ. Tab JJJ.

24 BY MR. COLLIER:

25 Q. And, sir, I'll represent to you

1 that this is a count we have performed, we as
2 in the State of Texas, of the number of
3 documents withheld in anticipation of
4 litigation.

5 And I'm not asking you to
6 confirm these numbers, because I don't --
7 I'll find out.

8 Do you know how many documents
9 have been withheld in this litigation due to
10 the anticipation of litigation?

11 MR. MCCALLUM: Can I just get a
12 representation from counsel as to how
13 this document was put together and
14 what it purports to represent?

15 MR. COLLIER: Yes. And tell me
16 if I get this right.

17 Generally speaking, Counsel, we
18 went through your privilege log. We
19 put in there as of May 16th, 2024, and
20 we looked at all entries that had
21 "anticipation of litigation" as the
22 basis for the hold. The phrase, yeah.

23 Is that -- do you understand?

24 MR. MCCALLUM: I'm happy for
25 you to continue asking questions.

1 MR. COLLIER: I'm not going to
2 make him swear to this. This is our
3 work product, not his, but I am
4 entitled to ask him if he knows.

5 BY MR. COLLIER:

6 Q. So, sir, just so I can ask you
7 if you know, do you know, from -- and I will
8 also represent to you on this chart, where it
9 says 1900 and N/A, those are documents that
10 for whatever reason are not dated.

11 MR. COLLIER: Log entries are
12 not dated? Okay.

13 BY MR. COLLIER:

14 Q. With that said, do you know,
15 other than this chart or with this chart or
16 in any way, how many documents Google has
17 withheld from production due to an
18 anticipation of litigation narrative in their
19 privilege log?

20 MR. MCCALLUM: Objection, scope
21 and form.

22 A. I do not know.

23 BY MR. COLLIER:

24 Q. If it is accurate that, when
25 the Court reviews Google's privilege log,

1 A. Just the first couple of pages.

2 Q. And I'm going to presume -- I
3 shouldn't presume anything.

4 Have you ever reviewed this
5 Civil Investigative Demand?

6 A. No.

7 Q. Will you look at the first
8 page, the very first sentence. The Office of
9 the Attorney General, OAG, quote, paren --
10 parens, quote, OAG, closed quote, closed
11 parens -- is investigating anticompetitive
12 conduct in markets relating to online
13 advertising in Texas and the rest of the
14 United States.

15 Do you see that?

16 A. Yes.

17 Q. Were you generally aware before
18 today that the CID was issued on this topic
19 in 2019?

20 A. No.

21 Q. If we can turn to the next page
22 of the document, that would be page 2, under
23 the word "Notice."

24 Do you see where it says: Any
25 person who, with intent to avoid, evade or

1 prevent compliance, in whole or in part, with
2 a CID, removes from any place, conceals,
3 withholds, destroys, mutilates or alters by
4 any other means falsifies any documentary
5 material, or otherwise provides inaccurate
6 information, is guilty of a misdemeanor.

7 Do you see that?

8 And then it continues on as to
9 what can happen if you're guilty.

10 Do you see that?

11 A. Yes.

12 Q. You have an understanding, even
13 without this notice, that once Google is put
14 on notice that certain documents are
15 relevant, destroying them could be a problem.
16 Right?

17 A. That could violate our
18 preservation obligations, right.

19 Q. So as we sit here today, what
20 actions are you aware of that Google took
21 after receipt of the Civil Investigative
22 Demand to prevent chats from being destroyed?

23 A. I'm not personally familiar
24 with the specific actions that were taken at
25 this time in this matter.

1 Q. What actions did you take, sir,
2 after you started your role at Google to
3 prevent chats responsive to the State of
4 Texas's Civil Investigative Demand from being
5 destroyed?

6 A. Well, as you mentioned, it's
7 not within my role to get directly involved
8 in individual legal holds, but I can describe
9 generally the process.

10 Q. Okay.

11 A. Which would be to issue a hold.
12 And what that means in terms of Vault and
13 Chat is when a hold is in place for an
14 individual custodian, that suspends the
15 retention rules for any application where
16 there is a Vault rule in place.

17 Q. And so if a litigation hold has
18 not been issued as to an individual, there
19 will be no retention of that individual's
20 chats?

21 A. They'll continue to be retained
22 in the normal course of business via our
23 regular rules, but there will not be any
24 special treatment as you would see in the
25 legal hold.

1 Q. And we'll discuss this later in
2 some more depth, but under your regular
3 rules, you mean, for example, 24 hours,
4 right?

5 A. Correct. History off, correct.

6 Q. History off.

7 So you mentioned, in response
8 to how these chats were preserved in your
9 response to this CID, a litigation hold.

10 So to whom did Google send
11 litigation holds, or at least chats, related
12 to the Civil Investigative Demand we've just
13 discussed, or this lawsuit generally?

14 MR. MCCALLUM: Objection,
15 scope.

16 A. Yeah, I don't know. I don't
17 have any knowledge of that.

18 BY MR. COLLIER:

19 Q. So it's fair to say -- if you
20 don't have any knowledge of which individuals
21 got litigation holds, you don't have any
22 knowledge of which individuals' chats would
23 have been deleted in the normal
24 24-or-whatever-hour retention, right?

25 MR. MCCALLUM: Objection,

1 scope.

2 A. Help me understand that
3 question a bit better. The chat retention
4 policy is operating continuously.

5 BY MR. COLLIER:

6 Q. Mm-hmm. So what is the
7 longest, absent a litigation hold, that the
8 chat retention policy will hold a chat?

9 A. For 18 months.

10 Q. And after 18 months, it's
11 deleted?

12 A. Correct.

13 Q. And in some cases the chat
14 retention policy is far shorter than 18
15 months, right?

16 A. Correct.

17 Q. 24 hours?

18 A. 24 hours, correct.

19 Q. And what's the other option?

20 A. 30 days.

21 Q. 30 days under what scenario?

22 A. In a history on, one-on-one or
23 group chat.

24 Q. So with history off, it's
25 24 hours, is it not?

1 A. Correct.

2 Q. Okay. So if you don't know who
3 got litigation holds to change the 24-hour
4 chat retention, is it fair to say you can't
5 tell me whose chats were retained?

6 MR. MCCALLUM: Objection,
7 scope.

8 A. Explain -- can you rephrase
9 your question?

10 BY MR. COLLIER:

11 Q. Sure.

12 So let's take Mr. Mohan, just
13 as an example, since you know him. Or know
14 of him.

15 A. I don't know him personally.

16 Q. Okay. But you know of him?

17 A. Correct.

18 Q. So we can use him as a name.

19 A. Sure.

20 Q. So if Mr. Mohan sent a chat in
21 2018 or participated in a chat with location
22 history off --

23 A. It's not location history.

24 Q. Excuse me. History off.

25 A. Chat history off, correct.

1 Q. That would be deleted within
2 24 hours, unless he was under a litigation
3 hold.

4 A. We should --

5 MR. MCCALLUM: Objection to
6 scope and form.

7 A. We should also clarify the
8 retention behavior of history-off messages,
9 and this is not just for Google; this is for
10 all Workspace customers who use Google Chat.
11 They are -- those history-off messages are
12 never available to Vault.

13 So they will -- they will
14 disappear from the user's view after
15 24 hours, but they are never available for
16 retention purposes.

17 BY MR. COLLIER:

18 Q. Are you saying that if history
19 is off on chat -- so let's take Mr. Mohan's
20 chats -- those are never available to Vault
21 even in the 24-hour retention period?

22 A. Correct. And this is the way
23 it works for all Workspace customers. This
24 is how the product was designed.

25 Q. By the way, Vault is a Google

1 product, right?

2 A. That's right.

3 Q. And Google Chat is a Google
4 product, right?

5 A. That's right.

6 Q. So they could be designed any
7 way Google wants them designed, right?

8 A. I have -- wasn't involved in
9 those products or engineering conversations.

10 Q. So for a chat to be retained at
11 all by Google, in Google's Vault, it requires
12 location history to be on?

13 A. Not location history.

14 MR. MCCALLUM: Objection to
15 form.

16 BY MR. COLLIER:

17 Q. Sorry, history.

18 A. Correct, it has to be sent in a
19 history-on state.

20 Q. And therefore -- and if history
21 is on, the state of history is on, then it
22 will be retained with the user for 24 --
23 24 hours, 30 days, or up to 18 months,
24 depending on the certain circumstances?

25 A. The shortest history-on

1 retention is 30 days, and then it goes up to
2 18 months for certain types of conversations.

3 Q. So -- we'll go over some
4 examples today. When you have a group chat,
5 say you and Mr. Mohan, just to have an
6 example.

7 And both of your location
8 history -- your histories are off. Not
9 location history. Sorry. Both of your
10 histories are off.

11 A. Just to be clear, there's one
12 history for a conversation. So it's not each
13 individual. It's a conversation history.

14 Q. That -- thank you, because
15 you've anticipated what I was trying to ask,
16 which is, there's only one switch, on or off,
17 right?

18 A. For each conversation, correct.

19 Q. For each conversation.

20 And if you and Mr. Mohan have a
21 back-and-forth, you know, five messages each
22 direction, with history off, right?

23 A. Yeah.

24 Q. Are you with me?

25 A. Mm-hmm.

1 Q. And then you turn on history.
2 Are you with me so far? On message No. 11 in
3 total.

4 A. Yep.

5 Q. It is fair to say that Vault
6 can only capture messages 11 onwards, right?

7 A. Correct.

8 Q. Everything prior to that being
9 turned on is gone, even though it's part of
10 the same group chat.

11 A. That's how the product works,
12 correct.

13 Q. Okay. So we've discussed you
14 don't know who received litigation hold
15 notices in this case, so would it be fair to
16 say you don't know whether or not --

17 Well, let me back up. I want
18 to ask another question about Vault.

19 And is that the way Vault has
20 always operated that, you know, in our
21 scenario, where you and Mr. Mohan send five
22 messages each, and then on message 11, one of
23 you goes, hey, let's turn on history, that
24 Vault never got the first 10 messages from
25 Google Chat?

1 A. That's right.

2 Q. But has it always operated that
3 way?

4 A. Yes. For all Workspace
5 customers, not just for Google. That's the
6 default product behavior for everyone.

7 Q. You say "default product
8 behavior." Can that be altered?

9 A. No. That's -- sorry. Default
10 should not have been in that answer. This is
11 the way history-off messages have always
12 worked, and continue to work today.

13 Q. Have you ever spoken to any of
14 the engineers who coded Vault?

15 A. Yes, we work with the product
16 team.

17 Q. Have you ever asked the Vault
18 engineers, how can we capture the first part
19 of the messages that someone turned history
20 on for?

21 MR. MCCALLUM: Objection,
22 scope.

23 A. No, we haven't had that
24 conversation.

25 * * *

1 BY MR. COLLIER:

2 Q. So what is the default -- or
3 "default" is probably not the right word.

4 When you say you use Chat, is
5 it -- just today, when you go back to your
6 office, or I guess you're remote. When you
7 go back to chatting, what is the name of the
8 program you are using? Is it Google Chat?

9 A. It's Google Chat today.

10 Q. And you don't use any
11 third-party applications to chat, do you?

12 A. No, I don't.

13 Q. You wouldn't use Apple
14 Messenger or anything?

15 A. No, not at work.

16 Q. Yes.

17 A. Yeah.

18 Q. And does everyone understand to
19 only use Google Chat or Google-approved chat
20 messages to do chatting?

21 A. I'm not aware of any policy
22 specific to this, but I -- I have never used
23 anything other than that.

24 Q. Okay. And Google doesn't use
25 any third-party programs alongside or in lieu

1 of Vault, right? It uses your Google Vault
2 program?

3 A. Correct.

4 Q. Okay. Back to litigation holds
5 in this case, which I think you may not know
6 these answers, but I have to ask you.

7 Do you know if litigation holds
8 in this case were sent at different times or
9 were they all sent at one time?

10 MR. MCCALLUM: Object to the
11 scope.

12 A. I don't know.

13 BY MR. COLLIER:

14 Q. So if I was to ask you a series
15 of questions about when various employees got
16 litigation hold notices, you just wouldn't
17 have any knowledge of that?

18 A. That's correct.

19 MR. MCCALLUM: Objection,
20 scope.

21 BY MR. COLLIER:

22 Q. How would I find out, or how
23 would you find out who has received a
24 litigation notice, a hold notice in this
25 case, that would affect chats?

1 MR. MCCALLUM: Objection to
2 scope.

3 A. -- I'm not aware.

4 BY MR. COLLIER:

5 Q. Before I move on, I want to
6 make sure I have an understanding of Vault
7 and its implications.

8 So today is May 17, 2024,
9 right?

10 A. Is it the 16th or the 17th?

11 Q. I think it's the 17th.

12 A. Oh, gotcha.

13 Q. But it's May of 2024, right?

14 A. Correct.

15 Q. So I'm going to ask you about
16 what happens today, which is -- you know,
17 I've asked some stuff about before you got
18 here.

19 A. Yes.

20 Q. As of today, if an individual
21 employed at Google has been identified and
22 the -- and their history is on, then the
23 chats that they did with history off will
24 never be captured by Vault.

25 A. That's right. They're not

1 available to Vault, correct.

2 Q. And not only are they not
3 available to Vault, they're not available
4 anywhere else in the Google system.

5 A. Correct.

6 Q. I mean, if you were under a
7 court order to go get them, you would just
8 have to say, I can't do it?

9 A. Correct.

10 MR. MCCALLUM: Objection,
11 scope.

12 BY MR. COLLIER:

13 Q. And those chats that you
14 couldn't get that were done -- that were had
15 prior to history being turned on, that could
16 include chats that existed at the time
17 history was turned on, we still couldn't get,
18 right?

19 A. Give me more specifics there.

20 Q. Sure. Let's go back to our
21 example where you and Mr. Mohan exchanged 10
22 chats -- chat messages back and forth in the
23 same chat, and then at some point history was
24 turned on.

25 A. Mm-hmm.

1 Q. The prior 10 chats, assuming
2 they were within the 24-hour-and-whatnot
3 period, the prior 10 chat messages would have
4 existed as of the time history was turned on,
5 correct?

6 A. Correct.

7 Q. But those would have still been
8 deleted within 24 hours or whatever the
9 appropriate retention period is, right?

10 A. That's right.

11 Q. And there's nothing you can do
12 today to get those back.

13 A. Correct.

14 Q. No backup servers, no emergency
15 disaster servers, nothing?

16 A. No.

17 MR. MCCALLUM: Object to the
18 scope.

19 BY MR. COLLIER:

20 Q. And does Vault know when a
21 litigation hold has been issued as to a
22 certain employee?

23 A. Yes.

24 Q. Okay. So let's just assume,
25 hypothetically, Mr. Mohan was put on a

1 litigation hold. We're just going to make
2 the day up for purposes of the demonstrative.

3 He was put on a litigation hold
4 effective January 1st of 2021.

5 Are you with me so far?

6 A. Mm-hmm. (Witness nods.)

7 Q. That would mean there's nothing
8 about -- well, let me ask this: Does the
9 litigation hold, when it's entered into
10 Vault, auto -- well, you know what, I'll make
11 this after February of 2023 when history was
12 turned on to make this easier for you. I'm
13 sorry.

14 A. Okay.

15 Q. Let me start again.

16 So let's assume March of 2023.
17 If Mr. Mohan gets a litigation hold effective
18 March of 2023, just as a hypothetical, what
19 happens in Vault related to Mr. Mohan and his
20 chats?

21 A. So any chats that are actually
22 on our systems remaining, right, they haven't
23 been removed in the normal course --

24 Q. All right.

25 A. -- they would be preserved

1 indefinitely for the length of the hold.

2 Q. And to be clear, they haven't
3 been removed in the normal course, that's the
4 24-hour, 1-month up to 18-month period,
5 right?

6 A. Correct.

7 But again, that wouldn't
8 include 24 hours because those are
9 history-off messages.

10 Q. Okay.

11 A. So Vault wouldn't even have
12 access to them during that 24-hour period.

13 Q. Can you explain that to me?

14 A. Sure. Yeah.

15 So like we talked about, if
16 history is off and a message is sent, even
17 within that 24-hour period, Vault does not
18 have access to that message. So if a legal
19 hold is issued 12 hours in, it's not going to
20 be able to retain that message that was sent
21 in the history-off state, because it doesn't
22 have access to that message.

23 Q. So if -- when Mr. Mohan's
24 hypothetical litigation hold is put into
25 Vault, again, let's just say March 1, 2023,

1 A. Yes.

2 Q. Do you disagree that Google is
3 an e-mail and instant messaging culture?

4 A. I think Google is a modern
5 technology company.

6 Q. Right. And so like all modern
7 technology companies, you use e-mail and
8 instant messaging or Chat, right?

9 A. That's right.

10 And then, if we -- if we go to
11 the first sentence in the next paragraph,

12 [REDACTED] says in 2008: To avoid
13 inadvertent retention of instant messages, we
14 have decided to make, quote, off the record,
15 end quote, the Google corporate default
16 setting for Google Talk.

17 Do you see that?

18 MR. MCCALLUM: Objection,
19 scope. And can I get a representation
20 as to -- from counsel as to which
21 topic we are on right now?

22 MR. COLLIER: We are on the
23 deleted chats topic.

24 MR. MCCALLUM: It reads a lot
25 as though we're on Topic No. 19, which

1 is the subject in the protective
2 order.

3 MR. COLLIER: Okay. Well,
4 let's see.

5 BY MR. COLLIER:

6 Q. What is -- do you have an
7 understanding of what Google Talk is?

8 A. I believe it was one of the
9 predecessors of Google Chat.

10 Q. Okay. So it's a chat program?

11 A. That's my understanding.

12 Q. All right. So you still use
13 the phrase "off the record" today in relation
14 to chat programs, right?

15 MR. MCCALLUM: Objection,
16 scope.

17 A. I can't speak for every
18 Googler, but in my personal experience,
19 that's one way that you can describe it.

20 BY MR. COLLIER:

21 Q. And by "off the record," that
22 is a reference to history being off?

23 A. Those terms are used
24 synonymously, correct.

25 Q. And so do you have any

1 disagreement, or do you have any reason to
2 disagree that as to the Google Chat program,
3 at that time Google Talk, that the Google
4 corporate default setting, since at least
5 2008, has been off the record?

6 MR. MCCALLUM: Objection to --
7 BY MR. COLLIER:

8 Q. Until it was changed in 2023.

9 MR. MCCALLUM: Objection,
10 scope, protective order.

11 A. Yes, I -- that's my
12 understanding.

13 BY MR. COLLIER:

14 Q. So for approximately 15 years,
15 the Google corporate default setting for its
16 chat programs has been off the record?

17 MR. MCCALLUM: Objection,
18 scope, protective order.

19 A. I don't know the entire history
20 here, but I can speak to my time. Yes, it
21 was off the record by default when I started.

22 BY MR. COLLIER:

23 Q. Okay. Are you familiar with
24 the training Google gives its employees on
25 chat messaging related to communicating with

1 care?

2 MR. MCCALLUM: Objection,

3 scope.

4 A. Yes, I'm generally familiar
5 with it.

6 BY MR. COLLIER:

7 Q. And what are Google's
8 instructions related to communicating with
9 care on chats?

10 MR. MCCALLUM: Objection,

11 scope.

12 A. I believe it's just a general
13 reminder to be thoughtful about what you send
14 to co-workers via Google Chat.

15 BY MR. COLLIER:

16 Q. I'm going to hand you what has
17 been marked tab R. And this will be Exhibit
18 427.

19 (Google/[REDACTED] Deposition

20 Exhibit 427, PowerPoint, You Said

21 What?!, USDOJ-GOOGEX-000253 -

22 USDOJ-GOOGEX-000304, was marked for
23 identification.)

24 BY MR. COLLIER:

25 Q. And I'll ask, is this the sort

1 of PowerPoint you've seen on the
2 communicating with care, at least as related
3 to chat messages?

4 A. Yes.

5 MR. MCCALLUM: Objection,
6 scope.

7 A. Yes, it looks the same, or
8 similar.

9 BY MR. COLLIER:

10 Q. And is the "communicate with
11 care" training refreshed every year?

12 MR. MCCALLUM: Objection,
13 scope.

14 A. I don't actually know what the
15 ongoing maintenance of it is.

16 BY MR. COLLIER:

17 Q. But you've had it more than
18 once since 2019?

19 A. I believe I took it when I
20 first joined. I don't know if I've seen it
21 since then, so I don't actually know what the
22 current cadence is.

23 MR. COLLIER: Okay. All right.

24 Let's take -- it's 11:00. Let's take
25 a five- or ten-minute break, whatever

1 you want, and I'll move around some
2 documents.

3 THE WITNESS: Okay.

4 THE VIDEOGRAPHER: Going off
5 the record. The time is 11:00.

6 (Recess taken, 11:00 a.m. to
7 11:08 a.m. PDT)

8 THE VIDEOGRAPHER: We are going
9 back on the record. The time is
10 11:08.

11 BY MR. COLLIER:

12 Q. [REDACTED], is it fair to define
13 Google Chat as a communications instant
14 messaging tool?

15 A. Yeah, that sounds right.

16 Q. And the reason Google offers
17 Google Chat as a tool for its employees is to
18 enhance collaboration and communication among
19 employees?

20 A. I don't know if they've used
21 that exact words, but that's been my
22 experience, yes.

23 Q. Okay. Let's go to Exhibit 416,
24 if that's your transcript.

25 Okay. If you want to go, it's

1 And my understanding is that's because of the
2 difference in the way that those two
3 communication types are produced. So
4 individual e-mails will each get produced as
5 a single item. Chats will come as
6 conversations, which can include many, many
7 messages within a single conversation. So
8 that is really kind of an apples-to-oranges
9 kind of comparison.

10 Q. Are you aware that when e-mails
11 are produced, it can often include all of the
12 other e-mails before it, just like what we
13 talked about earlier today when you read it
14 in reverse chronology?

15 A. Yes, as a thread. Yeah.

16 Q. And so e-mail threads are
17 similar to chat conversations, right?

18 A. In a sense.

19 Q. How many more chats would
20 Google have produced in this matter if it had
21 forced location history on in 2019?

22 MR. MCCALLUM: Object to the
23 form.

24 A. And definitely not location
25 history.

1 BY MR. COLLIER:

2 Q. I'm sorry, did I -- I'm going
3 to ask that question again. Thank you.

4 How many more chats would
5 Google have produced in this matter if it had
6 forced history on in 2019?

7 MR. MCCALLUM: Object to the
8 form.

9 A. There's no way of knowing the
10 answer to that.

11 BY MR. COLLIER:

12 Q. How many chats were --
13 discussing Ad Tech tools were not retained
14 because Google had not forced history on?

15 MR. MCCALLUM: Object to the
16 form.

17 A. There's no way of knowing that.

18 BY MR. COLLIER:

19 Q. Does that make you
20 uncomfortable as the information governance
21 lead?

22 A. It doesn't, because I rely on
23 the professionalism and the responsibilities
24 of the individual custodians who receive
25 specific instructions at the moment of their

1 hold being issued on how to use chat or not
2 to use chat when it relates to the topic of a
3 matter. And so that's why I feel confident
4 in their professionalism.

5 Q. Well, you don't have -- first
6 of all, you've never audited whether or not
7 that professionalism actually has people
8 retain relevant chats, have you?

9 MR. MCCALLUM: Object to the
10 form.

11 A. I haven't personally, no.

12 BY MR. COLLIER:

13 Q. Has anyone?

14 A. I don't know if there is a way
15 to do it.

16 Q. How many employees are there at
17 Google?

18 A. Today, there's around about
19 180,000, I believe.

20 Q. How many of those 180,000
21 employees at Google have you had
22 conversations with about making sure they
23 retain chats, if relevant to an ongoing
24 matter?

25 A. I have not personally had any

1 conversations with them. I'm referring to
2 the notice that's issued to all the Google
3 custodians.

4 Q. But there's a difference, as
5 you discussed with Judge Donato, in chats
6 versus e-mail retention, right?

7 A. They are two different
8 applications, so, yes, correct, there is a
9 difference.

10 Q. And to be clear, by default,
11 history is always on for e-mails, right?

12 A. There is no history setting for
13 e-mails.

14 Q. It's treated as if history is
15 always on, though, right?

16 A. They are each retained,
17 correct, according to the retention policy
18 for Gmail.

19 Q. And that's different than for
20 chats, as we've discussed?

21 A. Correct.

22 Q. And an employee has no ability
23 to turn off the retention of e-mails, do
24 they?

25 A. Correct.

1 Q. There's no location switch they
2 can -- excuse me, history switch that they
3 can turn off, is there?

4 A. Correct.

5 Q. In fact, as to e-mails, if a
6 custodian is on a litigation hold, they can't
7 adjust the e-mail retention settings at all.

8 A. Correct.

9 Q. And even without a litigation
10 hold, e-mails are retained for 18 months,
11 right?

12 A. Correct.

13 Q. And an employee can save them
14 forever, or opt out of e-mail destruction,
15 right?

16 A. They can apply a specific label
17 that accomplishes that, correct.

18 Q. And you did not make that
19 option available for chats, did you?

20 A. Again, they're completely
21 different applications, and they're different
22 in our estimation as well in terms of the
23 substantive business value for each of those
24 different types of communications, which is
25 why you see a different policy treatment

1 between e-mails and chats.

2 Q. Right.

3 So I just want to make clear
4 that for whatever reason, employees do not
5 have an option to retain a chat forever like
6 they do in e-mails.

7 A. Well, as I said, the reason is
8 because of the difference in substantive
9 business value of e-mail versus chats.

10 Q. So that's a yes, for that
11 reason, right? Employees do not have that
12 option for the reason you just gave?

13 A. Correct.

14 Q. But you could give employees
15 that option, couldn't you?

16 A. Which option specifically?

17 Q. The option of retaining a chat
18 forever.

19 A. That's true, that is an option.
20 And that would be contrary to the purpose of
21 the retention policy, which, as a -- on the
22 plain language of the policy, explains that
23 one of our goals is to reduce redundant,
24 obsolete, and trivial information.

25 Q. And so as to chats -- well,

1 be preserved, correct?

2 A. I disagree with that.

3 Q. Okay.

4 A. I --

5 Oh, go ahead.

6 Q. You can -- I didn't mean to
7 interrupt you.

8 A. I would just -- the equivalent
9 statement for chats would be custodians don't
10 have to do anything to make sure that
11 history-on messages are preserved. Because
12 as we've talked about, that's how Vault
13 works.

14 Q. Okay. If you could turn to
15 page 55 of your testimony before Judge
16 Donato, lines 11 to 15.

17 Were you asked: I think you
18 already said in response to the Court's
19 question that Google relies entirely on
20 individual employees to decide which of their
21 one-on-one or group chats will be preserved.
22 Correct?

23 And what did you answer?

24 MR. MCCALLUM: Objection,
25 scope.

1 A. Yes. I answered "Correct."

2 BY MR. COLLIER:

3 Q. And that's still the answer
4 today, right?

5 A. Exactly. And that's entirely
6 consistent with the explanation I just gave
7 you.

8 Q. So let's look at tab N. It
9 will be Exhibit 428.

10 (Google/ [REDACTED] Deposition
11 Exhibit 428, 8/23/17 Chat History,
12 GOOG-AT-MDL-008029060 -
13 GOOG-AT-MDL-008029061, was marked for
14 identification.)

15 BY MR. COLLIER:

16 Q. Let me know when you've had a
17 chance to look at that document.

18 [Document review.]

19 A. Okay.

20 BY MR. COLLIER:

21 Q. All right. Have you seen this
22 document before?

23 A. No.

24 Q. I'm going to -- who or what is
25 Mull, mull@google.com, the sender of this

1 anywhere.

2 Q. If we could turn to the next
3 page, there's a series of messages of some
4 sort.

5 Do you see the fourth up from
6 the bottom, there's a person,
7 henrich@google.com.

8 Do you know who that is?

9 A. I don't.

10 Q. Well, here she posted -- posted
11 on August 23rd of 2017: By default, it
12 starts all new conversations off the record.

13 Do you see that?

14 A. Yes.

15 Q. Is that your understanding of
16 Google Hangouts' default, that all new
17 conversations were off the record?

18 A. Are you asking me for the
19 product in 2017?

20 Q. Yes.

21 A. Based on --

22 MR. MCCALLUM: Objection to the
23 scope.

24 A. Based on what we've reviewed on
25 the previous page, that appears to be what

1 they're describing.

2 BY MR. COLLIER:

3 Q. And Google Chats today, does it
4 start all new conversations off the record?

5 A. No.

6 Q. When did that change, if you
7 know?

8 A. That also changed in 2023.

9 Q. As part of the forcing the
10 history on?

11 A. Correct.

12 Q. So prior to 2023, all new
13 conversations in -- all new chats in Hangout
14 Chats or what became known as Google Chats
15 were off the record -- started to default to
16 off the record.

17 A. Not exactly true. So there
18 were specific types of conversations in
19 Google Chat -- you'll see references to them
20 as threaded rooms -- that were history on by
21 default. And that was a specific type of
22 conversation that the product team
23 introduced, and that's just how retention
24 worked for those conversation types.

25 Q. And let me ask again, then:

1 Other than in a threaded room, prior to 2023,
2 all new conversations in Hangout Chats or
3 what became as Google Chats were defaulted to
4 be off the record?

5 A. Right. The corporate setting
6 was default off; however, like we've talked
7 about, if you had an existing conversation
8 with someone, or a group of people, and the
9 history was turned on, that history setting
10 would stay for that conversation's length
11 unless and until someone turned history off.

12 Q. Right.

13 And is it fair to say Google
14 Chat remembers your last setting for off the
15 record or not for each new conversation?

16 A. For each existing conversation,
17 right.

18 Q. So setting aside Exhibit 428,
19 [REDACTED], you have also left it up to each
20 individual Google employee to determine
21 whether or not to turn history on or off,
22 correct?

23 A. In the normal course of
24 business, outside of a litigation hold, yes,
25 it is -- employees get to choose.

1 Q. And Google employees know that
2 the default for their chats is off the
3 record, right?

4 A. The default is actually on, as
5 we just talked about, as of 2023.

6 Q. But even if they were under a
7 litigation hold, employees still had the
8 option to turn history off prior to 2023,
9 didn't they?

10 A. Yes, they had the option on
11 the -- in their discretion, and understanding
12 the instructions they were given as part of
13 the legal hold notice.

14 Q. And you would assume that
15 Google employees knew that off-the-record
16 chats were not retained, right?

17 MR. MCCALLUM: Object to the
18 form.

19 A. I can't speak to the general
20 knowledge of Googlers.

21 BY MR. COLLIER:

22 Q. Let's go back to Exhibit 416,
23 your testimony before Judge Donato.

24 Ask you to go to page 68. Look
25 at lines 11 to 13.

1 extra sheets, and this might be the
2 sheets that you're actually
3 referencing. So it was separate from
4 the document that you handed them.

5 MR. COLLIER: We pulled it, for
6 your convenience, to be in the front,
7 and it's also in the complete
8 document. That was just really for
9 you, and him, if you wanted to look at
10 a hard copy.

11 MR. MCCALLUM: That's fine.

12 MR. COLLIER: And thank you for
13 that, Mr. McCallum, because I didn't
14 want to --

15 MR. MCCALLUM: Please carry on.

16 MR. COLLIER: Okay.

17 BY MR. COLLIER:

18 Q. So do you see those Chat
19 settings?

20 A. Yes.

21 Q. Does this refresh your
22 recollection that when you started or about
23 when you started in 2019, that these were the
24 Chat settings for classic Hangouts?

25 A. So looking at the whole

1 document here, so at the top, under the
2 heading Chat - Hangouts Chat, it describes
3 this as testing for our FINRA-regulated
4 customers.

5 So the way I read this -- and
6 again, I've never seen this document before.
7 This predates my time at the company. To me,
8 this is not the version of chat that would
9 have been made available to Googlers, because
10 Google is not a FINRA-regulated organization.

11 So some of the settings -- and
12 I don't know this for sure -- I'm making
13 deductions as I read -- is that these
14 settings would not have been available to
15 Google as we are not the FINRA-regulated
16 customers that this feature is -- appears to
17 be targeted at.

18 Q. And that's fair. What is a
19 G-Suite Specialist CE?

20 A. I do not know.

21 Q. What is the Hangouts PM team?

22 A. I would assume that is the
23 product managers for that product.

24 Q. And Google has the Hangouts
25 project manager team, right?

1 A. Correct.

2 Q. So when it says This feature
3 can be enabled by your G-Suite Specialist CE
4 and the Hangouts PM team, that would mean
5 that it could have been enabled within
6 Google, by the Google Hangouts PM team,
7 right?

8 A. I read this as if you are a
9 FINRA-regulated customer, you have a special
10 version of Hangouts, which Google did not
11 have access to.

12 The way that you would get this
13 enabled is you would reach out to these
14 individuals or these teams that are listed
15 here, and they would do that on your behalf.
16 That's the way I read this.

17 Q. So when you say Google did not
18 have access --

19 (Technical comments off the
20 stenographic record.)

21 BY MR. COLLIER:

22 Q. [REDACTED], you said in your
23 answer: As I read this, if you were a
24 FINRA-regulated customer, you have special --
25 you have a special version of Hangouts which

1 Google did not have access to.

2 Didn't Google make every
3 version Hangouts? Isn't it a Google program?

4 A. So by access, I mean it was not
5 the version that was in effect for Google.

6 So I have no knowledge and I'm not an
7 engineer, and I don't know who was making
8 decisions around that. I'm saying the
9 version that individual Googlers used in
10 their day-to-day was likely a different
11 version than what is being described here.

12 Q. And because the version that is
13 being described here in 2019 is available to
14 some customers, do you have an understanding
15 of whether or not Google, as the
16 administrator, could have access to these
17 features if it wanted it?

18 MR. MCCALLUM: Object to the
19 form.

20 A. I don't know the answer to that
21 question.

22 BY MR. COLLIER:

23 Q. I'll hand you what has been
24 marked as Exhibit 430, which is tab DD,
25 Delta-Delta.

1 and form.

2 A. When you say you, who are you
3 referring to?

4 BY MR. COLLIER:

5 Q. You as in [REDACTED]
6 [REDACTED].

7 A. Can you -- sorry, can you
8 repeat?

9 Q. Sure.

10 If you were presented this
11 problem today, setting aside it being forced
12 on in 2023, would your solution if Verizon
13 was asking the question, how do we retain
14 direct messages for users under a litigation
15 hold, even if their history is toggled off,
16 would your response be, in substance, you've
17 got to force that history on for all users on
18 the litigation hold?

19 MR. MCCALLUM: Same objections.

20 A. That feels like a legal
21 judgment, so that would be for Verizon's
22 counsel to decide, I think.

23 BY MR. COLLIER:

24 Q. But as a -- that's what Google
25 did in 2023, right?

1 A. That's the decision that we
2 took for ourselves, correct.

3 Q. And if Verizon was asking the
4 same thing, that's at least an option for
5 them, correct?

6 MR. MCCALLUM: Objection, scope
7 and form.

8 A. I don't read that this way. I
9 read this as feature requests, right?
10 Customers make all kinds of requests all the
11 time, with -- that has no bearing on what our
12 actual internal capabilities might be.

13 So I read this as a customer
14 asked for something. I don't know what the
15 response would have been from the Google team
16 at the time.

17 BY MR. COLLIER:

18 Q. A customer asked to retain
19 direct messages for users under a litigation
20 hold, even if the history was off, right?

21 I mean, as based on this
22 document.

23 A. Correct.

24 Q. And the Google notes say that
25 they need to force history on for all users

1 on a litigation hold, correct?

2 A. I don't know the full context
3 of these statements. So I don't know exactly
4 what that means.

5 What -- I mean, blocked on
6 Verizon's response, I don't know how to
7 interpret that. What is blocked, is my
8 question.

9 Q. And you think that has
10 something to do with forcing history on?

11 A. Well, it's not clear to me from
12 this is -- if a request was made, what
13 options were available to the product team at
14 the time.

15 Q. Do you believe that forcing
16 history on was an option available in 2020
17 when this was written?

18 A. I don't believe so. Given that
19 we had specifically investigated and could
20 not do it ourselves.

21 Q. What about for the version we
22 discussed in 2019, on the so-called
23 FINRA-regulated clients?

24 MR. MCCALLUM: Objection, scope
25 and form.

1 A. So I would distinguish the
2 specifics that were in the FINRA example.
3 That was forcing history on for the entire
4 organization, full stop.

5 What we implemented was turning
6 history on for a specific subset of the
7 entire employee population. Only those
8 Googlers on legal hold.

9 So the capability that we saw
10 in the FINRA example is not the same thing as
11 what we ultimately implemented.

12 BY MR. COLLIER:

13 Q. It was actually a broader
14 capability, right? Force it on for everyone?

15 MR. MCCALLUM: Objection,
16 scope.

17 A. No. The forcing on for
18 everyone is the easier option. What we did,
19 and why it took us so many hundreds of hours
20 to do, is because it's very -- it's much more
21 difficult to only have that change apply to a
22 subset of all the employee population.

23 BY MR. COLLIER:

24 Q. So Google could have turned on
25 the history for the entire Google company

1 when you started in 2019, right? Not just
2 users on litigation hold, but the entire
3 company?

4 A. That's right.

5 Q. Okay. You mentioned earlier
6 today that you had reviewed a chat retention
7 policy.

8 A. Yes.

9 Q. How many chat retention
10 policies has Google had?

11 A. We have a single policy that
12 has been updated periodically over time.

13 Q. I asked an imprecise question
14 and you gave me a very precise answer. How
15 many times has the chat retention policy been
16 amended?

17 A. So if you actually look at the
18 history of that, that became a stand-alone
19 policy in 2020. I think we've made around
20 six changes, only one of which was actually
21 substantive. The other ones were just
22 updating because product changes had been
23 made, but there was no actual change to the
24 retention periods involved.

25 Q. Understood. Let's mark as

1 of us makes a change.

2 Q. Let's say you turn it on, but
3 Mr. Mohan, on his next message, turns it off.
4 Then what is retained?

5 A. Then it's -- whatever messages
6 were sent while history was on will have
7 the -- will actually be retained.

8 Q. Okay. So I've read this chat
9 policy a few times now, to myself. I don't
10 see any references to litigation holds or
11 legal holds in here.

12 Is there any?

13 A. Let me see.

14 [Document review.]

15 A. No, there is no mention in this
16 version.

17 BY MR. COLLIER:

18 Q. And who is lawyer cat?

19 A. That's just an internal kind of
20 jokey way to refer to members of the legal
21 team.

22 Q. It's not one particular lawyer;
23 it could be any lawyer surfacing in a
24 conversation?

25 A. Correct.

1 earlier today; when it's gone, it's gone,
2 right?

3 A. Correct.

4 Q. You said you have a -- you
5 manage a support alias? Can you tell me what
6 that is?

7 A. Yeah. Originally it was
8 recordsretention@google.com, and then we've
9 since updated it to infogov@google.com. And
10 we just include that in all of our
11 communications so folks know how to reach us
12 if they have a question.

13 Q. Okay. And that's where a lot
14 of Googlers have said: Hey, my chat from X
15 date that's got someone's birthday or
16 something important is gone; can I have it
17 back? And you essentially respond back with,
18 per our policy, that can't be recovered?

19 MR. MCCALLUM: Object to the
20 form.

21 BY MR. COLLIER:

22 Q. Is that fair?

23 A. That's fair.

24 Q. And then, if we look at the
25 bottom of the page, there's now a heading

1 called Legal Holds.

2 And my question for you here,
3 sir, is -- have you had a chance to look at
4 it?

5 A. Yes.

6 Q. Okay. When it talks about what
7 a legal hold will retain in a threaded room
8 conversation, it says: Conversations in
9 which you've participated, i.e., sent
10 messages, not just received.

11 Do you see that?

12 A. Yes.

13 Q. So if you and Mr. Mohan, back
14 to that example, are having a one-on-one --
15 well, it wouldn't be one-on-one; it would be
16 a threaded room conversation. Can two people
17 have a threaded room conversation?

18 A. I believe they can. There's no
19 limit on the number of participants. But
20 there wouldn't really be a reason to have a
21 threaded room conversation if it was just the
22 two of you.

23 Q. Okay. Let me just make a
24 better example.

25 It's you, your information

1 governance technician, and Mr. Mohan are
2 having a threaded room conversation, the
3 three of you.

4 And you and your technician are
5 not under a legal hold. Are you with me so
6 far?

7 A. Mm-hmm.

8 Q. But Mr. Mohan is. Are you with
9 me?

10 A. Yep.

11 Q. Is it fair to say that of that
12 conversation, it would only be retained if
13 Mr. Mohan sent a message, not just received
14 messages from you and your technician, who
15 are not under a legal hold?

16 A. That's right.

17 Q. Why wouldn't you retain
18 threaded room conversations in which someone
19 pursuant to a legal hold has received
20 messages?

21 A. Yeah, this was in --
22 specifically in response to the way that a
23 lot of threaded rooms are used, which are
24 kind of larger communication devices for
25 teams.

1 So they might add 50 people
2 from an organization and say, hey, everyone,
3 here's the -- you know, here's the schedule
4 for next week. They don't have any
5 questions. If only three people out of the
6 50 actually have a -- have questions or have
7 a conversation, this system will not enforce
8 the hold for every single person in that room
9 if they are taking no action whatsoever.

10 Q. Well, this is in contrast to,
11 say, an e-mail you would send Mr. Mohan,
12 right? That would be retained forever --

13 A. Right.

14 Q. -- if he's under a legal hold.

15 A. And the difference there is
16 that sending an e-mail is an intentional
17 action to communicate directly with one other
18 person. A room is just a space where a topic
19 might be discussed. The fact that you are a
20 member of that room or you were added to that
21 room, does not actually tell you anything
22 about the level of engagement or involvement
23 of the members of that room outside of
24 sending messages.

25 Q. So to tell the level of

1 engagement or involvement of the members of
2 the room, you'd have to look at the messages
3 itself, right, to see if there was anything
4 substantive communicated, who it involved,
5 what it involved.

6 A. It wouldn't be based on the
7 substance; it would be on the activity.

8 So if Mr. Mohan sent a message,
9 that would immediately -- his hold would
10 apply.

11 Q. Right. And I'm asking if
12 Mr. Mohan didn't send a message, and he's the
13 one under the hold, the hold would not apply.

14 A. Right. And that's why we've
15 written it as you've participated. So he
16 would not be considered a participant in that
17 scenario.

18 Q. Even if hypothetically you had
19 written Mr. Mohan, hey, as a lawyer, I've got
20 all kinds of concerns about Google's behavior
21 in this Ad Tech space. If he didn't respond,
22 it would not be retained under -- even if
23 he's under a legal hold, it would not -- that
24 chat would not be retained, would it?

25 MR. MCCALLUM: Objection, scope

1 and form.

2 A. If he was a member of a
3 threaded room, and a message was sent and he
4 never participated, that's correct.

5 BY MR. COLLIER:

6 Q. In Exhibit 432 --

7 By the way, Google preserves
8 e-mails sent to a distribution list, doesn't
9 it?

10 A. That's right.

11 Q. In your discussion in
12 Exhibit 432 of legal holds --

13 By the way, did you write
14 Exhibit 432?

15 A. Yes. It was my team that
16 produced it, yep.

17 Q. Well, I mean, you and your
18 technician are your team, or is there others
19 on your team?

20 A. Yeah.

21 Q. I didn't mean that in a
22 demeaning way. I just -- I don't know if
23 "your team" meant there were 50 people you
24 pulled from other places.

25 A. No, it would be me and my

1 technical lead would create the draft and
2 then -- yeah.

3 Q. Who approves -- who finally
4 approves these retention policies?

5 A. For this type of change, which
6 is just a formatting, it would go through my
7 direct leader, my direct manager, and then we
8 would typically publish it at that point.

9 And we've already discussed
10 this, I think, this morning. For substantive
11 changes, then they might need to go to higher
12 levels of leadership.

13 Q. Like the CEO?

14 MR. MCCALLUM: Objection, scope
15 and form.

16 A. In theory.

17 BY MR. COLLIER:

18 Q. So under the Legal Holds
19 section, nothing in this section directs
20 users to turn history on if they've been
21 notified they're subject to a legal hold,
22 does it?

23 A. That's right.

24 Q. And then it -- and then it's --
25 then the first paragraph says, at the very

1 last sentence: Still, don't manually delete
2 any chats relevant to the matter under any
3 circumstances.

4 Does that mean that a user
5 could manually delete a chat while under a
6 legal hold?

7 A. No. They -- it actually has no
8 bearing on whether that chat will be
9 preserved. It's more just a reminder to
10 folks to be mindful.

11 Q. Okay. So I'm going to hand
12 you -- let's mark this Exhibit 433, tab G, as
13 in golf.

14 (Google/████████ Deposition
15 Exhibit 433, Google Chat Retention
16 Policy, GOOG-AT-MDL-009709522-
17 GOOG-AT-MDL-009709523, was marked for
18 identification.)

19 [Document review.]

20 A. Okay.

21 BY MR. COLLIER:

22 Q. And we can look at the metadata
23 if you'd like, but as you'll recall,
24 Exhibit 432 went until the end of September
25 of 2021, and Exhibit 433 appears to me to be

1 effective from October of 2021 to December of
2 2021.

3 Is that correct?

4 A. That -- yeah, that appears to
5 be right, yep.

6 Q. Okay. And my question on
7 Exhibit 433 is simple: This appears to me to
8 be the first time that your chat retention
9 policy instructed a user to turn history on
10 if they are discussing things relevant to the
11 hold.

12 Is that true?

13 A. Can you point me to the
14 specific section you have in mind?

15 Q. Sure.

16 Under Legal Holds, the first
17 paragraph, last sentence.

18 Do you see at the end of that
19 last sentence -- remember we talked before
20 about the sentence "Still, don't manually
21 delete any chats"?

22 Isn't the phrase "and turn
23 history on if you are discussing anything
24 related to the hold," isn't this the first
25 time that's appeared in the Google Chat

1 retention policy?

2 A. Yes, that's right.

3 Q. So the first time that --
4 telling the user to turn history on if
5 they're discussing anything related to the
6 hold would have been approximately
7 October 1st of 2021?

8 MR. MCCALLUM: Object to the
9 form.

10 A. Yeah, that's incorrect, because
11 all the legal hold notices would have
12 included a direct instruction not to use the
13 product if they're discussing a topic related
14 to the matter, or to turn history on if the
15 conversation went in that direction.

16 So this is added here to
17 supplement the previous instruction that had
18 been provided to the custodians all
19 throughout. Because this is a static page
20 that's available to all Googlers at all
21 times.

22 BY MR. COLLIER:

23 Q. And you haven't seen the
24 litigation hold notices to people in this
25 case, have you?

1 A. No, but I know generally the
2 form that they take. But I haven't seen the
3 specific ones, correct.

4 Q. Was Vault capturing whether
5 history was toggled on or off as for any
6 particular user?

7 MR. MCCALLUM: Objection,
8 beyond the scope.

9 A. I don't -- I think they might
10 be able to show that a history change was
11 made. I don't know if they can show the
12 history state at any particular moment.

13 BY MR. COLLIER:

14 Q. Do you think it just says
15 history change? It doesn't say history on,
16 history off?

17 A. I believe that's correct.

18 MR. MCCALLUM: Objection,
19 scope.

20 MR. COLLIER: I'm going to take
21 a break just because I'm going to
22 cough.

23 THE VIDEOGRAPHER: We're going
24 off the record. The time is 1:28.

25 (Recess taken, 1:28 p.m. to

1 the judge asking you questions, right, at the
2 hearing?

3 A. (Witness nods.)

4 MR. MCCALLUM: Objection,
5 scope.

6 A. That's right.

7 BY MR. COLLIER:

8 Q. So the first question on this
9 page from the Court was: So, basically, you
10 left it up to each individual Google employee
11 to decide about the history?

12 Do you see that question?

13 A. Yes.

14 Q. And your answer was, "Yes."

15 A. That's right.

16 Q. And that's right? At least
17 prior to 2023, correct?

18 A. And along with the instructions
19 that they received as part of the legal hold
20 notice.

21 Q. The instructions given to each
22 individual Google employee, right?

23 A. No, to each individual
24 custodian. The legal hold notice would
25 include instructions on how to use the

1 product and how to change their history
2 setting if the relevant topic was -- came up
3 in the conversation.

4 Q. I confess, I don't understand.
5 We must be talking past each other.

6 So let me just try again. And
7 it's probably just because it's late in the
8 day for me.

9 The Court asked you: So,
10 basically, you left it up to each individual
11 Google employee to decide about the history.
12 And you said yes.

13 Is that correct?

14 MR. MCCALLUM: Objection,
15 scope.

16 A. Yes, that's right.

17 BY MR. COLLIER:

18 Q. Are you saying something
19 different today?

20 A. No, I'm saying the individual
21 action to decide about the history was left
22 up to each employee. And I'm just adding
23 here, that was informed by the instructions
24 that they were given on how to use the
25 product during the period of time they were

1 under a legal hold.

2 Q. Okay. And then the question I
3 tried to ask you a minute ago, and I must not
4 have asked it very clearly, the Court said:
5 Okay. And did anyone ever audit that? Did
6 anyone in your department ever audit the
7 chats to make sure that nothing relevant to
8 the litigation was getting missed?

9 And what did you say?

10 MR. MCCALLUM: Objection,
11 scope, and subject to the protective
12 order under which topic 19 is not in
13 scope for this deposition.

14 A. Yes. So I explained what we've
15 already talked about, that we don't have a
16 technical ability to monitor individual
17 conversations, so we wouldn't know what
18 topics they were being -- they were
19 discussing.

20 BY MR. COLLIER:

21 Q. Okay. And then the Court --
22 one more question, pretty similar question --
23 said: All right. So there was never any
24 check to make sure relevant evidence wasn't
25 being missed?

1 And what was your response?

2 MR. MCCALLUM: Objection,
3 scope, and subject to the protective
4 order.

5 A. Yes, I answered: No. We
6 wouldn't have the ability to do that.

7 BY MR. COLLIER:

8 Q. And that's still true today,
9 right?

10 A. Correct. And as we've talked
11 about, if the history was off, right, those
12 were the only messages you didn't have access
13 to, we would have no visibility into those
14 messages.

15 Q. Now, have you asked
16 internally -- you mentioned before that there
17 would be some way to tell if the history
18 change -- or the history status had changed
19 but you didn't know if it went from on to off
20 or vice versa; is that fair?

21 MR. MCCALLUM: Objection,
22 scope.

23 A. Yeah, that's fair.

24 MR. COLLIER: And you can take
25 down this exhibit, sir.

1 BY MR. COLLIER:

2 Q. Have you asked internally the
3 folks that keep that history status or wrote
4 the code for that as to whether or not it's
5 possible to tell more than just the status
6 changed but what the status was and now is?

7 MR. MCCALLUM: Objection,

8 beyond the scope.

9 A. No, I haven't asked them that.

10 BY MR. COLLIER:

11 Q. And I believe you told me this
12 morning, but just to be sure, you don't know
13 if every custodian in this matter received a
14 litigation hold, do you?

15 A. I wasn't involved, so I
16 wouldn't be able to speak to that.

17 Q. Do you know how many custodians
18 in this case turned history on at any point
19 during the litigation hold?

20 MR. MCCALLUM: Objection,

21 beyond the scope.

22 A. I don't know.

23 BY MR. COLLIER:

24 Q. Do you know how many custodians
25 turned history off at any point during the

1 litigation hold?

2 MR. MCCALLUM: Objection,
3 beyond the scope and subject to the
4 protective order.

5 A. I don't know.

6 MR. COLLIER: Counsel, I don't
7 understand your scope objections.
8 We're here on retention of chats, and
9 he has testified under oath that
10 history on or off affects that. So, I
11 mean, I don't really mind you making
12 them, but I don't understand your
13 basis for it.

14 MR. MCCALLUM: The basis is
15 that the Court has ordered that topic
16 No. 19 is the subject of a protective
17 order, and Topic No. 19, subpoint (b)
18 is: The extent to which any document
19 custodian in this case conducted chats
20 with a default history off setting
21 enabled -- and then there's a series
22 of subpoints under that.

23 So that's the basis of my
24 objection subject to the protective
25 order.

1 A. Yeah, that's what it looks
2 like.

3 Q. So when Google Drive links --
4 like when [REDACTED], here on October 12,
5 2021, sent some links, and the chat is
6 retained and it's sent to the Vault, is the
7 underlying document retained in the Vault?

8 A. Yes. So -- well, it would
9 depend on the ownership of the docs.

10 Q. Okay. Can you explain?

11 A. Yeah. So a hold is placed on
12 an individual. And so I don't know the
13 substance of these docs. I don't know how
14 they were created, who owned them, but that
15 would actually determine the preservation
16 status of those docs, not if they've appeared
17 in the chat somewhere.

18 Q. Okay. So let's assume in this
19 scenario, Sundar Pichai was under a
20 litigation hold, and let's assume that Emily
21 Singer, in comms, was not.

22 Can you just assume that?
23 That's just a hypothetical.

24 Are you telling me whether or
25 not these documents would be retained depends

1 on who is listed as the owner or creator of
2 those documents in the Google Drive?

3 MR. MCCALLUM: Objection, scope
4 and form.

5 A. Yes, it would not be subject
6 solely to the existence in the chat. The
7 legal holds that apply to Drive use different
8 factors, not just their appearance in a chat
9 conversation.

10 BY MR. COLLIER:

11 Q. That's -- thank you. That's
12 what I was trying to get to.

13 It might be separately
14 retained, due to whoever the owner/custodian
15 is, but when you retain the chat, just
16 because there is a hyperlink to a document in
17 the chat, the hyperlink may get retained as
18 it is in the exhibit we're looking at, but
19 not the underlying document, because that
20 depends upon whoever's the owner/creator of
21 that document and whether they have a
22 litigation hold?

23 A. That's right.

24 Q. Do you know if Sundar Pichai
25 has turned off history since you've been at

1 the company?

2 A. I --

3 MR. MCCALLUM: Objection,
4 scope.

5 A. I don't know that.

6 BY MR. COLLIER:

7 Q. Okay. Do you know if he has
8 been under a litigation hold since you've
9 been at the company?

10 MR. MCCALLUM: Objection,
11 scope.

12 A. I don't know that specifically.

13 BY MR. COLLIER:

14 Q. Are you aware of the -- you
15 testified in the Epic case, the federal court
16 case we talked about.

17 Do you recall that?

18 A. Mm-hmm.

19 Q. Do you know what overlap there
20 is in the custodians in the Epic or the
21 Google Play Store case that you testified in
22 and in the case we're here about, Texas
23 antitrust case?

24 A. No, I don't.

25 Q. In the Epic case, there is

1 testimony about a system-wide backend log.

2 Are you familiar with that?

3 MR. MCCALLUM: Objection to
4 scope.

5 A. I'm familiar with logs, yes.

6 BY MR. COLLIER:

7 Q. And what is, generally
8 speaking, the system-wide backend log as it
9 relates to chats?

10 A. Are you asking -- tell me more.
11 Be more specific. What are you asking about?

12 Q. Okay. Well, you said you were
13 familiar with, in the Epic case, a
14 system-wide backend log, so I was asking,
15 what is it generally.

16 A. Yeah, generally, it's a record
17 of different actions that take place within
18 the product at specific points in time, and I
19 think it's typically used for debugging
20 purposes by the technical team that supports
21 the product.

22 Q. And are you aware that in the
23 Epic case you testified in, a 55-day
24 system-wide backend log was produced?

25 A. I wasn't involved in producing

1 it, but that sounds consistent with my
2 understanding.

3 Q. Did you see the log?

4 A. No.

5 Q. Are system-wide -- you said
6 system-wide backend logs are typically used
7 for debugging purposes by the technical team
8 that supports the product?

9 A. That's my understanding of the
10 chat log files.

11 Q. Did you have any conversations
12 with the technical team that supports the
13 Google Chat product as to whether or not
14 system-wide backend logs exist?

15 A. No.

16 Q. As we sit here today, is there
17 just a rolling 55-day system-wide backend log
18 for chats?

19 A. I believe that's how it works,
20 yes.

21 Q. If you wanted to get today's
22 rolling 55-day system-wide backend log for
23 chats, like, you know, Sundar Pichai came in
24 your office and said, go get that, where
25 would you go?

1 MR. MCCALLUM: Object to the
2 scope.

3 A. I would go to the technical --
4 so within the discovery, legal organization,
5 we have a discovery operations team, and they
6 would be the technical experts who could
7 facilitate that request.

8 BY MR. COLLIER:

9 Q. Okay. And the -- it's your
10 understanding, is it not, that the log shows
11 history on or off events for all of the
12 custodians captured by that log, right?

13 A. I think that's right.

14 Q. And when I say history on or
15 off events, that means someone toggling
16 history on to off or off to on, right?

17 A. That's right.

18 Q. And the system-wide backend log
19 would contain enough information to show
20 which specific user changed the log to on or
21 off, right?

22 A. Change a particular setting?

23 Q. Yes.

24 A. Right. That's right.

25 Q. And the specific date and time?

1 A. That's right.

2 Q. And the specific chat
3 conversation?

4 A. That's right.

5 Q. And who is the custodian within
6 Google of this log? Is it the legal
7 operations team or is there a technical
8 custodian?

9 A. I actually don't know the
10 answer to that.

11 Q. Did you ask to look at the
12 system-wide backend log for this case?

13 A. No.

14 Q. All right. I'm going to hand
15 you tab NNN, which we will mark as
16 Exhibit 438.

17 (Google/████████████████████ Deposition
18 Exhibit 438, Findings of Fact and
19 Conclusions of Law Re Chat
20 Preservation, was marked for
21 identification.)

22 BY MR. COLLIER:

23 Q. Tell me when you've had a
24 chance to look at it.

25 [Document review.]

1 A. I'm not sure. I don't know.

2 Q. And by jury instructions, you
3 mean adverse jury instructions that
4 instructed the jury that the missing chats
5 could or should be presumed to be unfavorable
6 to Google?

7 MR. MCCALLUM: Objection,
8 beyond the scope.

9 A. That's my understanding.

10 BY MR. COLLIER:

11 Q. If we could turn to page 3.
12 I'm just going to -- because the Court walked
13 through some Findings of Fact, in part based
14 on your testimony, I just want to see if you
15 agree with the Court.

16 If we can go to page 3,
17 paragraph 2 of Findings of Fact.

18 The Court's second finding of
19 fact is: Google employees are no strangers
20 to document production and discovery
21 obligations.

22 Do you agree with that?

23 MR. MCCALLUM: Object as beyond
24 the scope.

25 A. I couldn't speak to Google

1 employees as a single collection.

2 BY MR. COLLIER:

3 Q. Okay. Let's go to paragraph 14
4 on page 6.

5 The Court found that, the first
6 sentence: Google Chat is an essential tool
7 used daily by Google employees.

8 Do you have any reason to
9 disagree with that?

10 MR. MCCALLUM: Object, scope.

11 A. In my personal experience,
12 that's correct.

13 BY MR. COLLIER:

14 Q. Okay. Paragraph 15.

15 The Court found: There are no
16 restrictions on the content and topics on
17 Chat, hearing transcript at 47:2-10. Parens,
18 Chat can be used for, quote, anything under
19 the sun that employees want to communicate,
20 end quote.

21 Is that accurate?

22 MR. MCCALLUM: Objection,
23 scope.

24 A. Yes, the product does not
25 restrict you from typing in anything that you

1 might be interested in communicating.

2 BY MR. COLLIER:

3 Q. Nor does Google. Right?

4 You can -- Google employees can
5 use Google Chat for business things, right?

6 A. Correct.

7 Q. Birth announcements, which are
8 not a Google business thing, right?

9 A. Correct.

10 Q. Paragraph 29 on page 9.

11 Now, the first sentence here
12 says: Google has the technical ability to
13 set Chat history to, quote, on, as the
14 default for all employees who are subject to
15 a legal hold, but it chooses not to, period.

16 Now, that, I believe you'll
17 say, was true until February of 2023, right?

18 MR. MCCALLUM: Objection to
19 scope.

20 A. That's right.

21 BY MR. COLLIER:

22 Q. Let's go to paragraph 32.

23 The Court found: Google did
24 not check to see if custodians were actually
25 preserving relevant Chats as directed by the

1 MR. COLLIER: I'm simply
2 explaining it for context. He doesn't
3 have to swear to it.

4 Everything beyond here, I'm
5 going to ask him if it's accurate.

6 A. So what does yes mean?

7 BY MR. COLLIER:

8 Q. Yes means that Google has
9 withheld documents based on an anticipation
10 of litigation.

11 A. You mean retained? Withheld,
12 to me, means that it was held back --

13 Q. Yes.

14 A. -- for means of privilege or
15 some other reason.

16 Q. Correct. That's withheld.

17 A. Ahh, okay.

18 Q. But again, you don't have to
19 swear to that. I just wanted you to have
20 context.

21 A. No, I'm just trying to make
22 sure I interpret it correctly.

23 Q. You're doing great. Your
24 questions are great.

25 The next category says the

1 Ad Tech -- and by Ad Tech we mean here the
2 State of Texas Ad Tech, not the DOJ, but I
3 suspect the answer is maybe the same --
4 litigation hold.

5 Do -- I believe you've
6 testified you don't know when that litigation
7 hold was first entered?

8 A. Correct.

9 Q. So assuming that it was first
10 entered in 2020, I've put yes after 2020, but
11 no up until 2019.

12 But I presume we can agree that
13 there would have been no Ad Tech litigation
14 hold prior to the receipt of the State of
15 Texas CID we looked at earlier, in late 2019.

16 A. As a general matter, that would
17 make sense to me.

18 Q. So the nos are probably
19 accurate on this, and the yeses, we just
20 don't know.

21 MR. MCCALLUM: Object as beyond
22 the scope.

23 A. I think that's right.

24 BY MR. COLLIER:

25 Q. Okay. And now -- and this is

1 where you may have to help me. Because I --
2 I tried, and Mr. Glenn, who is the brains of
3 the operation here, tried really hard.

4 We tried to apply the policies
5 as we understood it, and the conditions to
6 see whether or not chats would have been
7 retained.

8 And just starting with the
9 first one -- and we won't go through all six
10 if you get the gist and you think I'm right,
11 or wrong.

12 A. Mm-hmm.

13 Q. In a situation where there was
14 a one-on-one chat, but the history was off,
15 the policy at all times would be they would
16 be purged after 24 hours?

17 A. Correct. And they would never
18 be available to Vault.

19 Q. Hence why, in this row, the
20 answer should always be no as to whether they
21 were retained, because they weren't available
22 to Vault. Right?

23 A. Correct.

24 Q. And that would even be a no in
25 2013. Right?

1 A. Correct.

2 Q. Okay. Could you just scribble
3 no in there? I wasn't sure when I wrote
4 this.

5 A. Sorry, where do you want me to
6 scribble?

7 Q. 2013. I put a dash because I
8 didn't know.

9 Oh, sorry. Mr. Glenn's
10 correcting me. I almost misled you.

11 A. Yes.

12 Q. You can't have history off
13 after February of 2023, at least as to the
14 custodians.

15 A. Right, exactly.

16 Q. Okay. So that would be a dash,
17 because we don't know. It depends on whether
18 someone is the custodian, right?

19 A. Right.

20 Q. Okay. Now, if we look at the
21 next row, in a scenario where we have a group
22 chat with history off, those two are purged
23 after 24 hours.

24 A. Correct.

25 Q. And therefore, the nos going

1 all the way through 2022, and frankly, a
2 little bit into 2023, would be correct, they
3 would be nos.

4 MR. MCCALLUM: I'll object as
5 to scope as to the 2007 through 2018
6 time frame.

7 BY MR. COLLIER:

8 Q. I'm sorry, sir. Was that
9 correct?

10 A. That was correct, yes.

11 Q. And I can ask you questions row
12 by row, but now that you understand how I've
13 tried to fill this out, do you want to see if
14 you agree with me on the nos and yeses for
15 every category?

16 A. Yes. So the other
17 clarification, slash, edit that needs to be
18 made is for threaded chat rooms. So history
19 off, that's, again, 24 hours. So if history
20 is off, it does not matter the type of
21 conversation; it will always be 24 hours, and
22 it's never available to Vault.

23 Q. Okay.

24 A. So the final row -- the row --
25 five? Sorry, Threaded Chat/Rooms: History

1 Off.

2 Q. Should be purged after
3 24 hours, not 180 days?

4 A. Correct. History off is always
5 24 hours.

6 Q. Okay.

7 A. And that's the same for every
8 customer. It's not a Google-specific
9 customization. So history off -- a simpler
10 version of this would say: History off is
11 equals 24 hours, never available to Vault.

12 The other edit is, for Threaded
13 Chat/Rooms: History On, the policy is
14 18 months. So that's 540 days, not --
15 180 days is six months. So just want to do
16 the math correctly.

17 Q. It's always the math. You,
18 sir -- I understand both. Can you make both
19 corrections just on that sheet?

20 A. Yeah.

21 Q. You can see I made one
22 correction, arguably in Google's favor, and
23 one against them. I'm just even-handed in my
24 inability to --

25 A. It's not in favor, it's just

1 how it works.

2 Q. It's just how it works, you're
3 right.

4 A. Yep.

5 Q. Okay. Sir, with the
6 corrections that you've made on exhibit --
7 what number were we on --

8 439, the one that you've
9 initialed. And we'll make sure the court
10 reporter gets that one as the exhibit and not
11 the one that's blank.

12 Is this a fair summary of what
13 we've discussed today and what would have
14 been retained and sent to the Vault and what
15 would not have been?

16 MR. MCCALLUM: Object as to
17 scope and as to form.

18 A. In terms of accurately
19 representing the product behavior, yes, I
20 think that's correct.

21 MR. COLLIER: All right. I'll
22 pass the witness.

23 MR. MCCALLUM: Take a break.

24 MR. COLLIER: Okay.

25 THE VIDEOGRAPHER: We're going

C E R T I F I C A T E

I, DEBRA A. DIBBLE, RDR, CRR, CRC,
Notary Public, do hereby certify:

That [REDACTED], the witness
whose deposition is hereinbefore set forth,
was duly sworn by me and that such deposition
is a true record of the testimony given by
such witness;

That pursuant to FRCP Rule 30,
signature of the witness was not requested by
the witness or other party before the
conclusion of the deposition;

I further certify that I am not
related to any of the parties to this action
by blood or marriage, and that I am in no
way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have
hereunto set my hand on 18th day of May,
2024.



Debra A. Dibble TX CSR-10777

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